

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/724,286

Applicant(s)

SEOK ET AL.

Examiner

PAUL J. GRAHAM

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: see notes.

/Vivek Srivastava/
Supervisory Patent Examiner, Art Unit 2623

The reply to final office action of 5/1/08 was filed 6/30/08; it remarks on amended limitations of use control data considered not covered by the rejections, the remarks have been addressed.

Response to Arguments:

Note Wasilewski does disclose the metadata, his flags represent the use control metadata (data about data or information).

The information on whether the right to copy the event has been purchased (CCI), whether the event is active or analog or digital (BF) and whether its end time has been extended (RI) (see Wasilewski, fig. 17, col. 31, ll. 12-30). Additional support for the instant claims being obvious variants of a known theme such as use control metadata is given by the use of Morinaga and Boston in the rejections.

Morinaga does not teach or suggest use control metadata

The Examiner respectfully disagrees. In fact, Morinaga shows what the combination suggests it does, that is a meta data information related to use control (see Morinaga, col. 1, ll. 43-50, col. 2, ll. 20-25, col. 2, l. 65-col. 3, ll. 10, use-control meta data). As rejected in Office Action, 5/1/08, the meta data of Morinaga does indicate "content can be copied freely, copied one time only and never copied (see Morinaga, col. 5, ll. 54-63). As Wasilewski shows the user control metadata and Boston further supports the obviousness of the instant invention with further disclosure of use control metadata.

Boston does not show a retention information data.

The Examiner respectfully disagrees. As noted above, Boston is part of the combination that shows said data. In fact, Boston's retention period is use control (it is certainly use control data, given that it pertains to the use of said content, whether viewed or stored) and it is meta data (it is data about data or in terms of the instant specification [31] it includes information on things such as kind and location) and it does show the length of time content can remain stored (see Boston, col. 14, l. 64-col. 15, l. 15).

The Examiner fails to understand the contrast scenario setup by applicant in remarks dated 6/30/08. It is obvious to see that the retention period data of Boston is the retention information (RI) data in the instant application, so there is no contrast between the inventions here. The applicant's notice about a hypothetical scenario based on a particular profile setting is a tangential and unproductive argument. The PVR profile is independent of the Boston retention period meta data (RI) (see Boston, fig. 3). As noted in Boston, col. 14, ll. 64-67, they can work together, so obviously they are separate functional units.

Further consideration and/or search may be required.

Additionally, the applicant's response has been received after the final rejection has been mailed out. For the arguments/amendments presented to be properly entertained it is recommended that the applicant file a Request for Continued Examination (RCE), per 37 CFR 1.114.